

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA,)
)
 v.)
)
 JAMES T. RICHARDS,)

Criminal No. 03-10367-MEL

**GOVERNMENT'S MOTION FOR AN ORDER
REGARDING EXCLUDABLE TIME**

The United States of America, through its undersigned counsel, hereby moves pursuant to 18 U.S.C. § 3161 for an order excluding time from the period within which trial must commence under the Speedy Trial Act. In support of this motion, the United States sets forth the following:

1) On August 30, 2004, this Court ordered that the period of time between June 8, 2004 through November 10, 2004, be excluded from the time period within which trial must commence (Docket Entry No. 84).

2) From August 17, 2004 until October 4, 2004, the defendant's interlocutory appeal (docket number 04-2074) was pending before the Court of Appeals for the First Circuit. In addition, the defendant filed two separate petitions in the Circuit Court. Appeal number 04-2126 was filed on August 23, 2004; and Appeal number 04-2215 was filed on September 7, 2004. Both of these petitions remained open and pending until February 8, 2005, when they were denied by the Circuit Court.

3) During a status hearing on September 21, 2004, this Court found that further examination regarding the defendant's competence to stand trial was required, and the Court ordered

that such further examination be conducted. Pursuant to the Court's order, the examination was subsequently performed by Dr. Montgomery C. Brower.

4) During a status hearing on May 25, 2005, the parties agreed that no further hearing on this issue was required, and the Court found that the defendant was competent to stand trial based upon the April 22, 2005 competence evaluation report prepared by Dr. Brower.

5) During that status hearing, the defendant requested additional time - until June 30, 2005 - to advise the Court of his intention to pursue an insanity defense.

6) The time period between September 21, 2004 through May 25, 2005, would be excludable pursuant to 18 U.S.C. § 3161(h)(1)(A), which calls for exclusion of periods of "delay resulting from any proceeding, including any examinations, to determine the mental competency . . . of the defendant."

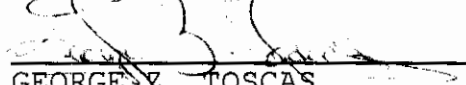
7) In addition, the time period between May 25, 2005 through June 30, 2005, would be excludable pursuant to 18 U.S.C. § 3161(h)(8)(A) and (B)(iv) in that the defendant has advised the Court that he is considering an insanity defense and that he has been in the process of identifying a doctor to perform a psychiatric evaluation in support of that defense. The ends of justice served by granting the defendant reasonable time to identify a doctor in order to consider such a defense outweigh the best interest of the public and the defendant in a speedy trial.

Accordingly, based upon the foregoing reasons, the United States requests an order excluding the period of time from November 10, 2004 through June 30, 2005, from the time period within which trial must commence.

Respectfully submitted,

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Acting United States Attorney

By:


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May 31, 2005

CERTIFICATE OF SERVICE

This is to certify that I have this day served upon the persons listed below a copy of the foregoing document by depositing in the United States mail a copy of same in an envelope bearing sufficient postage for delivery:

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May 31, 2005